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ORIGINAL: ENGLISH

Fifty-second session

REQUEST FOR THE INCLUSION OF AN ITEM IN THE PROVISIONAL AGENDA OF THE FIFTY-SECOND SESSION

AMENDMENT TO ARTICLE 14 OF THE STATUTE OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL

Note by the Secretary-General

1. Pursuant to rule 13, subparagraph (g) of the rules of procedure of the General Assembly, which provides that the provisional agenda of a regular session shall include items which the Secretary-General deems it necessary to put before the Assembly, the Secretary-General requests that the following item be included in the provisional agenda of the fifty-second session of the General Assembly:

> "Amendment to article 14 of the statute of the United Nations Administrative Tribunal"

2. As required by rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum concerning this item and a draft resolution will be submitted at a later date.

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NEED TO REVIEW GENERAL ASSEMBLY RESOLUTION 2758 (XXVI) OF 25 OCTOBER 1971 OWING TO THE FUNDAMENTAL CHANGE IN THE INTERNATIONAL SITUATION AND TO THE COEXISTENCE OF TWO GOVERNMENTS ACROSS THE TAIWAN STRAIT

Letter dated 14 July 1997 from the representatives of Burkina Faso, Dominica, the Gambia, Grenada, Guinea-Bissau, Nicaragua, Senegal, Solomon Islands and Swaziland to the United Nations addressed to the Secretary-General

Upon the instruction of our respective Governments, we have the honour to request you, pursuant to rule 13 of the rules of procedure of the General Assembly, to include an item in the agenda of the fifty-second session of the Assembly entitled "Need to review General Assembly resolution 2758 (XXVI) of 25 October 1971 owing to the fundamental change in the international situation and to the coexistence of two Governments across the Taiwan Strait". Pursuant to rule 20 of the rules of procedure of the General Assembly, we attach an explanatory memorandum (see annex I) and a draft resolution (see annex II).*

* The document has been reproduced as received. The designations employed do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory or area, or of its authorities.

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Permanent Representative
of Burkina Faso to the United Nations

(Signed) Momodou Kebba JALLOW
Permanent Representative
of the Gambia to the United Nations

(Signed) Alfredo Lopes CABRAL
Permanent Representative
of Guinea-Bissau to the United Nations

(Signed) Ibra Deguène KA
Permanent Representative
of Senegal to the United Nations

(Signed) Simon Paul RICHARDS
Permanent Representative
of the Commonwealth of Dominica
to the United Nations

(Signed) Robert E. MILLETTE
Permanent Representative
of Grenada to the United Nations

(Signed) Enrique PAGUAGA FERNÁNDEZ
Permanent Representative
of Nicaragua to the United Nations

(Signed) Rex Stephen HOROI
Permanent Representative
of Solomon Islands
to the United Nations

(Signed) Joel M. NHLEKO
Chargé d'affaires a.i.
Permanent Mission of Swaziland
to the United Nations

ANNEX I

Explanatory memorandum

1. Two Governments have been coexisting within China for nearly half a century, which is unique in the international community.

The Republic of China was established in 1912. Its Government led the Chinese people in the fight against Japanese invasion in the years up to and during the Second World War. In 1949, after several years of civil war, the Communists finally took control of most of the mainland and established the People's Republic of China. The Government of the Republic of China was forced to relocate to Taiwan.

The Republic of China was one of the founding Members of the United Nations. In fact, Article 23 of the Charter of the United Nations still enshrines the Republic of China as one of five permanent members of the Security Council.

Despite its loss of jurisdiction over the Chinese mainland, the Government of the Republic of China did not vanish. The reality is that, for nearly half a century, two separate Governments have been coexisting within the spacious boundary of China, with one exercising jurisdiction over the mainland and the other jurisdiction over the Taiwan area. This is a unique case in the international community and cannot be explained with the concept of "governmental succession" under traditional international law.

2. Resolution 2758 (XXVI), whereby the Republic of China on Taiwan was excluded from the United Nations, violates the spirit of the Universal Declaration of Human Rights.

After its relocation to Taiwan, the Government of the Republic of China continued to represent China in the General Assembly and the Security Council. For 22 years, from 1950 to 1971, the question of Chinese representation was debated in the United Nations. In October 1971, the Assembly adopted resolution 2758 (XXVI), substituting the People's Republic of China for the Republic of China as the representative of China.

Resolution 2758 (XXVI) had the effect of totally denying the fundamental rights of the people living in the Taiwan area, as citizens of a sovereign State, to participate in international organizations and their activities. This abrogation of their rights violates the spirit of the Universal Declaration of Human Rights adopted by the United Nations in 1948, which advocates that "Everyone is entitled to all the rights and freedoms set forth in this Declaration ... Furthermore, no distinction shall be made on the basis of the political jurisdictional or international status of the country or territory to which a person belongs".

3. The Republic of China on Taiwan fully meets the requirements for United Nations membership, yet is excluded from the United Nations. This disadvantage, a highly unusual situation, should be redressed by the United Nations.

Although it withdrew from the United Nations in 1971, the Republic of China has not lost its international personality. Today, the Republic of China maintains diplomatic relations with 30 countries in the world.

Despite the fact that it has not been a Member of the United Nations for over a quarter of a century, the Republic of China has always abided by the principles of democracy, development and peace enshrined in the Charter of the United Nations. With a view to responding positively to the needs of the international community, the Republic of China has helped many developing countries by sharing its development experiences and achievements.

The Republic of China has a population of 21.5 million people, more than the population of two thirds of the States Members of the United Nations. It also has a strong and well-developed economy, with a gross national product of US$ 260 billion, which makes it the world's twentieth largest economy and the fourteenth largest trading nation. It holds foreign exchange reserves of almost $90 billion.

Following a series of political reforms enacted over the past decade, the people of the Republic of China elected their President by popular ballot in March 1996 - an event unprecedented in Chinese history and one that confirmed the Republic of China as a democracy. As a result, the Republic of China now embodies a connotation that is totally different from that of 1971, when it was forced to withdraw from the United Nations.

The Republic of China on Taiwan, with its duly elected Government, its defined territory and its people, is a peace-loving country. It has the willingness as well as the capability to fulfil the obligations and rights of States Members of the United Nations, as stipulated in the Charter. It fully meets the qualifications for membership, yet it continues to be excluded from the United Nations. This situation requires redressing by the United Nations.

4. Parallel participation in the United Nations by the two sides of the Taiwan Strait would be conducive to regional security and world peace.

The geographic location of the Republic of China on Taiwan has made its economy and its development of democracy significant factors in the stability of the Asia-Pacific region.

With a view to promoting regional peace and to ending the hostility between the two sides of the Taiwan Strait, as well as to creating a healthy interaction between the two sides and an environment favouring the eventual reunification of China, the Government of the Republic of China has since 1987 allowed its citizens to visit their relatives in mainland China. Cultural, educational and economic exchanges between the two sides of the Taiwan Strait have also been encouraged.

In May 1991, the Government of the Republic of China, in a declaration ending the Period of National Mobilization for Suppression of the Communist Rebellion, acknowledged that its jurisdiction did not extend to the Chinese mainland, and that it no longer regarded the People's Republic of China as an insurgent group. The Republic of China accepts the reality that, within Chinese boundaries, there exist two political entities exercising jurisdiction over two separate parts of China. In other words, the Republic of China no longer engages in a zero-sum game vis-à-vis the People's Republic of China in the international arena.

Despite all these good will measures on the part of the Republic of China, the People's Republic of China remains hostile towards it. In March 1996, the People's Republic of China conducted a series of guided missile tests off the Taiwan Strait in order to intimidate the people on Taiwan and to obstruct the first direct presidential election in the Republic of China. These actions by the People's Republic of China severely damaged relations between the two sides of the Taiwan Strait and had international repercussions as well, in that they disturbed international aviation and shipping in north-east and south-east Asia. They reflect not merely the intolerant attitude of the People's Republic of China towards the Republic of China on Taiwan, but are a potential threat to peace, stability and security in the Asia-Pacific region. The United Nations should address this situation, for we believe that parallel participation of the two sides of the Taiwan Strait in the United Nations would promote dialogue, communication and understanding between the two sides and ultimately would be conducive to regional security and world peace.

5. Full participation of the Republic of China on Taiwan in the United Nations is a vital issue affecting the integrity of the United Nations and its viability in the twenty-first century.

The issue of the exclusion of the Republic of China from the United Nations and other international organizations has received worldwide attention.

In July 1995, a resolution by the European Parliament, entitled "On Taiwan's role in international organizations", contained the following statements:

> "Having regard to the significance of developments in the political situation in Taiwan for the whole of East Asia at a geopolitical and economic level and in terms of a policy of stability, security and peace in the Western Pacific region ... Stressing that participation by Taiwan in certain international organizations can assist with finding common ground between China and Taiwan and facilitate reconciliation between the two sides ... Regretting the fact that Taiwan at present is prevented from making a full contribution to the United Nations and its agencies, and stressing that, for the efficiency of the United Nations, Taiwan's participation would be desirable and valuable ..."

The resolution reflects not only the European Parliament's support of the bid by the Republic of China to participate in the United Nations, but also the European Parliament's assertion of the value of the participation of the Republic of China in that global body.

The participation of the Republic of China in the United Nations would be a testament to the integrity of the United Nations and would enhance its viability in the twenty-first century. The integrity of the United Nations would be manifested if the United Nations were capable of facing the multitude of global challenges through the cooperation of all the peoples in the world. Moreover, the countless emerging transnational issues, such as environmental protection, sustainable development, non-proliferation of nuclear weapons, prevention of drug trafficking and abuse, overpopulation in cities, payment of debts, eradication of poverty and protection of intellectual property rights, need to be addressed from a global perspective. To be successful, all these global projects require the participation and cooperation of every member of the international community.

The full participation of the Republic of China in the United Nations and its activities would also bring benefits in promoting international peace and prosperity.

6. The General Assembly's review of its own resolutions is not without precedent.

The key element keeping the Republic of China out of the United Nations is resolution 2758 (XXVI), adopted in 1971 by the General Assembly. That resolution was a product of the ideological confrontation which was taking place during the cold war era. The resolution deliberately neglected the fact of China's division after 1949.

The continued exclusion of the people of the Republic of China on Taiwan from the United Nations is archaic, unjust and unwarranted in the current international situation, and the resolution that perpetuates this exclusion must be reviewed.

The General Assembly's review of its own resolutions is not without precedent. Convinced that the Franco Government of Spain was a fascist regime and an illegitimate representative of the Spanish people, the General Assembly adopted in 1946 resolution 39 (I), by which it recommended that the Franco Government be barred from participating in the conferences or other activities within the United Nations system. With an enlightened understanding that the specialized agencies of the United Nations are basically functionally oriented and should be non-political in character, the General Assembly revoked resolution 39 (I) in 1950 when it adopted resolution 386 (V), in which it recommended that United Nations specialized agencies should be free to decide for themselves whether or not the participation of Spain in their activities was desirable.

7. The General Assembly should re-examine the deficiencies of resolution 2758 (XXVI) in order to restore promptly to the 21.5 million people of the Republic of China on Taiwan the lawful right to participate in all activities within the United Nations system.

Since the end of the cold war, the international situation has changed drastically. Nations no longer find themselves divided into two rival camps by their ideologies. Instead, a new world order has been shaped to accommodate the solution of disputes through negotiation. As the most important international forum, the United Nations could be an instrument for encouraging dialogue and negotiation between the two sides of the Taiwan Strait.

We hereby urge the United Nations to consider seriously the justification for the continued exclusion of the Republic of China from membership in it. We ask that the General Assembly re-examine the inadequacy of resolution 2758 (XXVI) and rescind it, in order to restore without delay to the 21.5 million people of the Republic of China on Taiwan the lawful right to participate in all activities within the United Nations system and to make it possible for the Republic of China to make a full contribution to the international community in so many ways.

ANNEX II

Draft resolution

The General Assembly,

Reviewing its resolution 2758 (XXVI) of 25 October 1971 on the representation of China at the United Nations, and noting that since then, as a result of that resolution, the Republic of China on Taiwan has been excluded from the United Nations,

Recognizing that since the end of the Chinese civil war in 1949, two Governments have been coexisting within the spacious boundary of China and have been exercising sovereign jurisdiction over the separate territories of the Chinese mainland and Taiwan for nearly half a century,

Recognizing that the Republic of China on Taiwan is a responsible member of the international community, with a stable democratic system and a dynamic economy, whose participation in the United Nations would benefit the international community,

Recognizing that the geographic significance of the Republic of China on Taiwan makes its national security and its relations with the People's Republic of China vital to the stability of the east Asia and Pacific region,

Observing that the 21.5 million citizens of the Republic of China living in Taiwan Penghu (Pescadores), Kinmen (Quemoy) and Matsu area enjoy all the rights of a genuinely democratic nation and that on 23 March 1996 they democratically elected their President, who is their representative in the international community,

Mindful of the fact that, while seeking to participate in the United Nations, the Republic of China has never abandoned the goal of eventual reunification,

Affirming the need of the global community to recognize and fully respect the fundamental rights of the 21.5 million Chinese who are recognized politically as the Republic of China on the territories of Taiwan, Penghu (Pescadores), Kinmen (Quemoy) and Matsu,

Noting the declaration of the Government of the Republic of China on Taiwan that it accepts without condition the obligations laid down in the Charter of the United Nations and that it wishes sincerely to contribute to the promotion and maintenance of international peace and security,

Decides to revoke the part of the decisions contained in its resolution 2758 (XXVI) excluding the Republic of China on Taiwan from the United Nations, and to restore to the people and the Government of the Republic of China on Taiwan all their lawful rights at the United Nations and in all the organizations related to it.